

1 Officer Caton asked Officer Hunter, "Is this him?"  
2 Like I said, I know Pat wasn't there, he was off  
3 that day. I knew I couldn't identify him. So I  
4 deferred to the officer involved and said, "Is this  
5 the guy?"

6 Q. Now, at this point in time am I correct in  
7 understanding, at least in your mind, you have no  
8 probable cause to arrest him?

9 A. I have probable cause to keep talking with  
10 him, but for the assault on the officer and the  
11 obstructing and everything else, no. In my opinion,  
12 I had no clue that this was the guy.

13 Q. You believed you had a reasonable  
14 suspicion in order to stop and talk to him?

15 A. Yes.

16 Q. And that's based on what factors?

17 A. Officer Hunter.

18 Q. Please continue.

19 A. As Dave steps into the spotlight and says,  
20 "Yes, that's the man that ran," or "That's the guy,"  
21 or whatever it was he said, I then reached down and  
22 grabbed the, I believe it was the -- would have been  
23 the left wrist of Mr. Owensby, as I reached with my  
24 right hand to grab my handcuffs. At which time he

1 it would have been like northwest, through the  
2 parking lot, only managing to get maybe 20 feet when  
3 I caught up to him, and unfortunately, we both  
4 collided into a car there. And as I tried to take  
5 him to the ground, we both kind of tripped and fell.  
6 I landed on my back, and he landed on top of me, my  
7 chest to his back.

8 Q. Do you know if Officer Caton also tackled  
9 Mr. Owensby?

10 A. No. I was the only one that tackled him.

11 Q. The car that you hit --

12 (Plaintiffs' Exhibit 9  
13 was marked for identification.)

14 Q. Let me show you Exhibit 9. Is that the  
15 car that you and Mr. Owensby ran into?

16 A. I don't know. If that's the one that was  
17 parked at the lot that everybody marked out, then  
18 that's the car. Is that the one? I don't know.

19 Q. Okay. Look back at Exhibit 8. Do you see  
20 that there is a car parked just to the left of the  
21 entrance as you're facing the entrance of the  
22 convenience store?

23 A. Yes.

24 Q. Do you see that? And it's -- the

1 compliance to overcome his strength by getting his  
2 arm out. Just so we don't lose sight of that part.

3 At that point, as soon as I gave him the  
4 commands, it was either twice or three times, his  
5 arm and his elbow -- his elbow moves up, his wrist  
6 starts to come up, I trap his wrist, I let go of the  
7 head, I come up. I give the arm to Pat as the  
8 handcuffing process is going on.

9 Q. When's the Macing?

10 A. I believe right, maybe the second before  
11 his arm pops out or as it's popping out. Might have  
12 been maybe a second before.

13 Q. Before the handcuffs are applied or after?

14 A. Before.

15 Q. At the time -- and -- and who applies the  
16 Mace?

17 A. Officer Hunter.

18 Q. Did -- was Officer Hunter ever -- any part  
19 of Officer Hunter's body in contact with Mr.  
20 Owensby?

21 A. I don't know.

22 Q. At this point in time that you've  
23 described, where you have Mr. Owensby's arm out  
24 and -- left arm out, and you're giving it to Officer

1 A. I don't know.

2 Q. How far was his hand with the Mace  
3 container from Mr. Owensby's face.

4 A. I would have to say less than 10 feet, but  
5 the exact distance, I don't know.

6 Q. After the Mace was applied, after you got  
7 Mr. Owensby's arm out, after the PR-24 was used, Mr.  
8 Owensby was handcuffed, correct?

9 A. Yes.

10 Q. At that point what did you do?

11 A. I believe I stood up.

12 Q. What did Officer Caton do?

13 A. I believe he tried to get Mr. Owensby to  
14 stand at that point.

15 Q. How?

16 A. To be honest with you, I don't remember.

17 Q. Did you see Officer Caton strike Mr.  
18 Owensby after he was handcuffed?

19 A. No.

20 Q. You did not?

21 A. I did not.

22 Q. What did Officer Hodge do?

23 A. Stood up also, I believe.

24 Q. Okay. What about Officer Sellers?

1 A. I don't remember.

2 Q. What about Officer Hunter?

3 A. I don't remember what he did.

4 Q. Is it fair to say that all of these --  
5 that the -- these five officers, you, Officer Caton,  
6 Officer Hodge, Officer Hunter and Officer Sellers  
7 worked together in arresting Mr. Owensby?

8 A. Uh, not Webster, but it sounds like a  
9 reasonable summation.

10 Q. Would you describe it as a team effort?

11 A. I guess.

12 Q. On the -- on that evening -- earlier that  
13 evening, when you originally responded to Officer  
14 Hasse and Sellers' car and there was a suspect in  
15 the back seat, do you know why the suspect in the  
16 back seat had been arrested?

17 A. Had to have been for a minor misdemeanor.  
18 That's what they were missing was the minor  
19 misdemeanor payout citation.

20 Q. Did you know what it was?

21 A. No.

22 Q. Did you ever talk to that person?

23 A. I don't remember if I did or not.

24 Q. Do you recall whether or not the person

1 At that point more cops started showing up. Golf  
2 Manor was the closest vehicle to us. They were  
3 asked if we could put Mr. Owensby in the back of  
4 their police car, being the closest one to us. So  
5 Officer Caton goes back down, attempts to pick Mr.  
6 Owensby up by his pants, if I can remember  
7 correctly. And with the spandex in them or whatever  
8 elastic it was, it stretched and he didn't come up  
9 off the ground.

10 Q. At this point in time was Mr. Owensby  
11 moving?

12 A. Yes.

13 Q. How so?

14 A. Pretty much the typical person after  
15 they've been Maced, kind of wincing the eyes and  
16 trying to roll to their side. Typical response that  
17 we've had.

18 Q. Did you see this?

19 A. Yes.

20 Q. You personally saw him wincing his eyes?

21 A. Yes, because he's rolling --

22 Q. Or blinking --

23 A. He's rolling up on --

24 Q. -- blinking his eyes?

1 Q. At that point in time is the scene  
2 stabilized?

3 A. Not necessarily. He's in a different  
4 department's police car. We've got cars still  
5 responding we have to disregard. We have  
6 supervisors we need to talk to. We have to get our  
7 cars over to the scene to transport Mr. Owensby from  
8 the Golf Manor car to our car, so we can relieve the  
9 Golf Manor's cars, thank them for coming, and send  
10 them on the way.

11 No, the scene is not, quote/unquote,  
12 stabilized. The way it was referred to me, the  
13 scene is not stabilized until you're in your car and  
14 either on your way to the station, on the way to the  
15 hospital, on the way to the jail, on the way to  
16 whatever. That's when the scene is stabilized.

17 Q. Go to the next page, page 3, subparagraph  
18 A. 2. It says, "When necessary, handcuff physically  
19 handicapped, injured, or pregnant prisoners in  
20 front."

21 A. I'm sorry, I'm missing where you're at.

22 Q. Page 3.

23 A. Page 3.

24 Q. A. 2.